



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

EL

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,706	08/31/2001	Kenneth O' Hara	511-018-2	1005

4955 7590 01/21/2004

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

EXAMINER

BARRY, CHESTER T

ART UNIT PAPER NUMBER

1724

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,706

Applicant(s)

O' HARA, KENNETH

Examiner

Chester T. Barry

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 33-44 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claims 21 – 27 are rejected under 35 USC Sec 112 (second paragraph) for failing to particularly point out the invention. Claim 21, as amended, requires that the flow means limits flow to a “constant” amount. Claim 26 purportedly further limits claim 21 in requiring further that the flow be “even.” It is unclear what “constant” and “even” mean if they don’t mean the same thing.

To the extent that “constant” and “even” mean the same thing, then claim 26 is objected to under 35 USC Sec. 112(fourth paragraph) for failing to further limit claim 21.

With the exception of the art-based rejection of Claims 24, 25, 32, the art rejections of record are incorporated herein by reference and maintained.

Nothing in any of claims 21 – 27 requires that the supply pressure vary. Accordingly, applicant’s invention reads on a forced air-fed distribution system operating at constant supply pressure, constant pipe size, constant fluid conditions, and constant pressure drop. In short, it reads on steady state conditions of a prior art system such as that shown by Schmit. Moreover, the claims do not require that the flow through each individual flow means of the system is the same as the flow through every other flow controller in the system. Hence, it also reads on “unbalanced” systems, such as a system of say 20 air diffusers, one of which is partially clogged.

The unclaimed invention may be a method for delivering a constant and predetermined flow from each of a plurality of flow means of a gas distribution system undergoing substantial supply pressure fluctuations. If that were to be claimed, it would require further consideration and search.

The drawings filed August 31, 2001 are approved.

The correction to page 9, second paragraph, line 6 of the Remarks ("within" -> "with") is noted with appreciation.

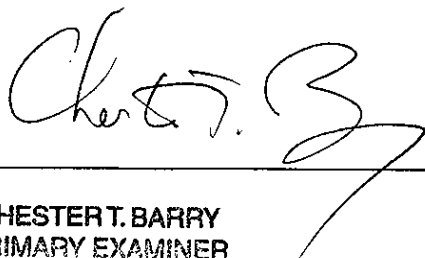
Claims 24, 25, 32 are objected to as being dependent on a rejected base claim, but are allowable over the prior art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory

Application/Control Number: 09/914,706
Art Unit: 1724

Page 4

action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A handwritten signature in cursive script, appearing to read "Chestert. Barry", is written above a horizontal line. The signature is fluid and stylized, with a large, sweeping flourish at the end.

CHESTERT. BARRY
PRIMARY EXAMINER

571-272-1152